

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA et al,
Plaintiffs,

V.
EDUCATION MANAGEMENT
CORPORATION et al,
Defenda

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)
) Civ. A. No. 2:07-cv-461
) Judge Nora Barry Fischer
)
)

ORDER OF COURT

AND NOW, this 9th day of March, 2017, upon consideration of the Motion to Intervene and Motion for Clarification of Protective Order filed by the Project on Predatory Lending of the Legal Services Center of Harvard Law School, (the “Project”), (Docket Nos. [456], [458]), supporting briefs, (Docket Nos. [457], [459]), the various responses thereto, (Docket Nos. [474], [475], [476]), including the opposition set forth by the United States and Education Management Corporation, (“EDMC”), and its related entities, (Docket Nos. [477], [478], [479], [480]), the Replies filed by the Project, (Docket Nos. [483], [484]), and the Sur-Replies by the United States and EDMC, (Docket Nos. [489], [490], [491], [492]), and after conducting a telephone status conference on March 8, 2017 with counsel for the parties, (Docket No. [494]), during which the Project, EDMC and the United States were unable to agree on the referral of these motions to a Special Master, as proposed by the Court, but acknowledged that a stay of further briefing and disposition of these motions is appropriate given the adjudication of the administrative appeal by the Department of Justice to the Project’s FOIA request, and the filing of the separate FOIA lawsuit against the Department of Justice at Civil Action Number 2:17-cv-210, its forthcoming Amended Complaint, which the Department of Justice is expected to Answer, based on representations of counsel and as such litigation is likely to be resolved through cross-motions for summary judgment, upon limited, if any, discovery,

IT IS HEREBY ORDERED that the Project's Motions [456] and [458] are DENIED, without prejudice, to renewing such motions at the conclusion of the FOIA litigation; and,

IT IS FURTHER ORDERED that, as discussed with the parties, and suggested by the State of Minnesota, (Docket No. [474]), the Court intends to refer the FOIA litigation to mediation and believes that EDMC is a necessary party to such mediation due to the provisions governing disclosures to third parties set forth in the Amended Protective Order in this case, (Docket No. [453] at ¶ 7), as well as the potential for the Project to renew its motions to intervene and to clarify the protective order at the conclusion of the FOIA case.

s/Nora Barry Fischer
Nora Barry Fischer
U.S. District Judge

cc/ecf: All counsel of record

Hon. Richard A. Levie (Ret.)
(by email to: rlevie@jamsadr.com)